

1 HOUSE BILL NO. 26

2 INTRODUCED BY C. JUNEAU

3 BY REQUEST OF THE STATE-TRIBAL RELATIONS COMMITTEE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT THE COMPOSITION OF THE BOARD OF
6 PARDONS AND PAROLE INCLUDE AT LEAST ONE QUALIFIED AMERICAN INDIAN MEMBER OR, IF A
7 QUALIFIED AMERICAN INDIAN IS UNAVAILABLE FOR APPOINTMENT, A PERSON WHO POSSESSES
8 PARTICULAR KNOWLEDGE OF AMERICAN INDIAN CULTURE AND PROBLEMS; AMENDING SECTION
9 2-15-2302, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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11 WHEREAS, according to 2000 census data, 6.21% of Montanans identify themselves as "American
12 Indian-Alaska native" and 1.11% describe themselves as "American Indian-Alaska native and another race";
13 and

14 WHEREAS, according to the Department of Corrections prison population demographic statistics, 18.4%
15 of the 2,130 male inmates incarcerated in Montana's state institutions on December 3, 2001, identified
16 themselves as "Native American"; and

17 WHEREAS, on the same date, the Department of Corrections also reported that of the 151 female
18 inmates incarcerated in Montana's state institutions, 31.1% identified themselves as "Native American".

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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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23 **Section 1.** Section 2-15-2302, MCA, is amended to read:

24 **"2-15-2302. Board of pardons and parole -- composition -- allocation -- quasi-judicial.** (1) There
25 is a board of pardons and parole.

26 (2) The board consists of three members and two auxiliary members, at least one of whom must ~~have~~
27 be an American Indian qualified under this section or, if a qualified American Indian is unavailable for
28 appointment, a person who possesses particular knowledge of American Indian culture and problems. Members
29 of the board, including the auxiliary members, must possess academic training that has qualified them for
30 professional practice in a field such as criminology, education, psychiatry, psychology, law, social work,

1 sociology, or guidance and counseling. Related work experience in the areas listed may be substituted for these
2 educational requirements.

3 (3) An auxiliary member shall attend any meeting that a regular board member is unable to attend, and
4 at that time, the auxiliary member has all the rights and responsibilities of a regular board member.

5 (4) Board members and auxiliary members shall serve staggered 4-year terms. The governor shall
6 appoint one member and one auxiliary member in January of the first year of the governor's term, one member
7 in January of the second year of the governor's term, and one member and one auxiliary member in January
8 of the third year of the governor's term.

9 (5) The terms of board members and auxiliary members run with the position, and if a vacancy occurs,
10 the governor shall appoint a person to fill the unexpired portion of the term.

11 (6) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121.
12 However, the board may hire its own personnel, and 2-15-121(2)(d) does not apply.

13 (7) The board, including the auxiliary members, is designated as a quasi-judicial board for purposes
14 of 2-15-124, except board members must be compensated as provided by legislative appropriation and the
15 terms of board members must be staggered as provided in subsection (4).

16 (8) The provisions of 2-15-124(2) do not apply to the board."
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18 NEW SECTION. Section 2. Notification to tribal governments. The secretary of state shall send a
19 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
20 band of Chippewa.

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22 NEW SECTION. Section 3. Effective date -- applicability. [This act] is effective on passage and
23 approval and applies to appointments made after [the effective date of this act].

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